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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JEREMIAH COOK, an individual,

Plaintiff,

v.

TEQUILA THURMAN in her individual capacity, **CARRIE HUTCHISON** in her individual capacity, and **RYAN LUFKIN** in his individual capacity,

Defendants.

Case No. 3:24-cv-01481-AB

DEFENDANT CARRIE HUTCHISON'S ANSWER TO FIRST AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

Defendant Carrie Hutchison answers Plaintiff's First Amended Complaint as follows:

1.

Defendant Hutchison denies the allegations and legal conclusions set forth in paragraph 1.

2.

Defendant Hutchison lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2, and therefore denies them.

3.

Defendant Hutchison admits paragraphs 3, 4, and 5.

4.

In response to paragraphs 6, 7, 8, 9, 10 and 11, Defendant Hutchison admits that a man named Cole Culver used heroin on May 23, 2015; that 911 was called to respond to Cole Culver's medical distress; that Officers Brown and Lloyd were the first Portland Police Bureau officers to arrive in response to the call for help for Cole Culver; that one or both of them performed CPR on Mr. Culver; and that a pulse was obtained for Mr. Culver before he was taken to the hospital. Defendant Hutchison is without sufficient knowledge or information to form a belief in the truth of the allegations contained in those paragraphs and therefore denies them.

5.

Defendant Hutchison admits paragraphs 12 and 13.

6.

Defendant Hutchison is without sufficient knowledge or information to form a belief in the truth of the allegations contained in paragraphs 14, 15 or 16, and therefore denies them.

7.

In response to paragraphs 17 and 18, Defendant Hutchison admits that she authored a report that contained the quoted language and that she knew Mr. Culver was alive at the time she wrote the report. Defendant Hutchison further alleges that the inclusion of the quoted language in the report was an error, made inadvertently without the intent to deceive.

8.

Defendant Hutchison is without sufficient knowledge or information to form a belief in the truth of the allegations contained in paragraph 19 and therefore denies them.

9.

Defendant Hutchison denies paragraph 20 and specifically avers that she did not believe Culver to be dead and did not inform Cook that he was dead.

10.

Defendant Hutchison is without sufficient knowledge or information to form a belief in the truth of the allegations contained in paragraphs 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38, and therefore denies them.

11.

Defendant Hutchison denies paragraph 39.

12.

Defendant Hutchison responds to paragraph 40 as above.

13.

In response to paragraphs 41 and 42, Defendant Hutchison admits she was acting under color of state law and that there was no probable cause to arrest Cook for the death of Culver because Culver was alive. The remaining allegations are denied.

14.

Defendant Hutchison denies paragraphs 43, 44, 45 and 46.

15.

Defendant Hutchison responds to paragraph 47 as above.

16.

Defendant Hutchison denies paragraphs 48 and 49.

17.

Defendant Hutchison denies paragraphs 50, 51 and 52.

18.

Defendant Hutchison responds to paragraph 53 as above.

19.

Defendant Hutchison denies paragraph 54.

20.

Defendant Hutchison admits paragraph 55.

21.

Defendant Hutchison denies paragraphs 56, 57 and 58.

22.

Defendant Hutchison responds to paragraph 59 as above.

23.

Defendant Hutchison denies paragraphs 60, 61, 62, 63 and 64.

24.

Except as otherwise admitted herein, Defendant Hutchison denies each and every allegation of Plaintiff's First Amended Complaint.

**FIRST AFFIRMATIVE DEFENSE
(FAILURE TO STATE A CLAIM)**

25.

Plaintiff has failed to allege ultimate facts sufficient to state a single claim for relief against Defendant Hutchison.

**SECOND AFFIRMATIVE DEFENSE
(QUALIFIED IMMUNITY)**

26.

Defendant Hutchison is entitled to qualified immunity on all claims asserted under 42 U.S.C. § 1983.

**THIRD AFFIRMATIVE DEFENSE
(FELONY DEFENSE – ORS 31.180)**

27.

All of Plaintiff's state law claims against Defendant Hutchison are barred by the Felony Defense of ORS 31.180.

**FOURTH AFFIRMATIVE DEFENSE
(COMPARATIVE FAULT)**

28.

Plaintiff's alleged injury of being incarcerated for several months was caused by more than 50% comparative fault by Plaintiff's own actions in engaging in felonious criminal behavior.

**FIFTH AFFIRMATIVE DEFENSE
(STATUTE OF LIMITATIONS)**

29.

Plaintiff has failed to assert his claims within the time allowed by statute. He is therefore barred by the applicable statutes of limitations from pursuing those claims.

**SIXTH AFFIRMATIVE DEFENSE
(ESTOPPEL)**

30.

Plaintiff admitted to committing the crimes for which he was sentenced and served prison time. He is estopped from now asserting that he did not commit those crimes.

**SEVENTH AFFIRMATIVE DEFENSE
(FAULT OF OTHERS – SETTLING PERSON UNDER ORS 31.600(2))**

31.

On information and belief, Plaintiff asserted a claim against his prior attorney in the underlying criminal action for their liability arising from the facts and circumstances alleged herein. Specifically, Plaintiff claimed his attorney was negligent in failing to discover that Mr. Culver was alive before advising Plaintiff regarding the plea offer. Defendant Hutchison also alleges herein on information and belief that Plaintiff's prior attorney was negligent in their representation of Plaintiff, resulting in the some or all of the damages he suffered, if any.

Plaintiff's prior attorney settled Plaintiff's claim against them before this complaint was filed. Pursuant to ORS 31.600(2), the jury shall consider the fault of Plaintiff's prior attorney in causing his damages, if any, and shall allocate a percentage of fault to the prior attorney as a settling person under ORS 31.600(2).

**NINTH AFFIRMATIVE DEFENSE
(UNCLEAN HANDS DOCTRINE)**

32.

Plaintiff was a drug dealer at the time material to this case. He possessed and sold heroin and other drugs, including the heroin that Cole Culver ingested on May 23, 2015. Plaintiff admitted to engaging in the conduct underlying the drug crimes that he was convicted of and

sentenced for. He is barred by the doctrine of unclean hands from pursuing a civil claim against Defendant Hutchison for damages he claims he suffered as a result of time spent in prison for his criminal activity.

RIGHT TO ATTORNEY'S FEES

33.

Defendant Hutchison is entitled to an award of her reasonable costs and attorney's fees pursuant to ORS 20.105 and 42 U.S.C. § 1988.

DEMAND FOR JURY TRIAL

34.

Defendant Hutchison demands trial by jury.

* * *

WHEREFORE, having fully answered Plaintiff's First Amended Complaint, Defendant Hutchison prays for judgment in her favor, including an award of reasonable attorney's fees, costs and disbursements incurred herein, and any and all other relief as the Court may deem just and proper.

DATED this 14th day of October, 2024.

HUTCHINSON COX

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CERTIFICATE OF SERVICE

I certify that on October 14, 2024, I served or caused to be served a true and complete copy of the foregoing **DEFENDANT CARRIE HUTCHISON'S ANSWER TO FIRST AMENDED COMPLAINT** on the party or parties listed below as follows:

- Via the Court's Efilng System
- Via First-Class Mail, Postage Prepaid
- Via Email
- Via Personal Delivery
- Via Facsimile

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